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PATENT APPLICATION

ATTORNEY DOCKET NO. 200312030-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Keith Istvan FARKAS et al.

Confirmation No.: 8159

Application No.: 10/614,856

Examiner: Faris S. ALMATRAHI

Filing Date: July 9, 2003

Group Art Unit: 3627

Title: INVENTORY MANAGEMENT OF COMPONENTS

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on June 11, 2009.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

Respectfully submitted,

Keith Istvan FARKAS et al.

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PATENT

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MAIL STOP APPEAL BRIEF - PATENTS

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REPLY BRIEF - PATENTS

Sir:

The Appellants respectfully submit this Reply Brief in response to the Examiner's Answer mailed on June 11, 2009, and thus, this Reply Brief is timely filed within two months of the Examiner's Answer.

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(1) Status of Claims

Claims 13-36 have been canceled.

Claims 43-54 have been withdrawn from further consideration on the improper basis that these claims are directed to a nonelected invention.

Claims 1-12 and 37-54 are thus pending in the present application.

Claims 1-12 and 37-42 stand rejected.

Therefore, claims 1-12 and 37-54 of this application are at issue on this appeal.

(2) Grounds of Rejection to be Reviewed on Appeal

A. Whether Claims 43-54 should have been withdrawn from consideration as being directed to a nonelected invention.

B. Whether Claims 41-42 should have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

C. Whether Claims 1-10 and 37-40 should have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,546,315 to Kleinschnitz (hereinafter “Kleinschnitz”) in view of U.S. Patent Application Publication No. 2001/0020935 to Gelbman (hereinafter “Gelbman”).

D. Whether Claims 11 and 12 should have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kleinschnitz in view of Gelbman and further in view of U.S. Patent No. 5,434,775 to Sims et al. (herein after “Sims”).

E. Whether Claims 41 and 42 should have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Gelbman further in view of U.S. Patent Application Publication No. 2003/0106937 to Creager et al. (herein after “Creager”).

(3) Arguments

A. Claims 43-54 should not have been withdrawn from consideration as being directed to a nonelected invention

The Examiner asserts that the arguments in support of the assertion that claims 43-54 should not have been withdrawn from consideration are improper because objections to a restriction requirement are not appealable. Although the Examiner is correct with respect to a restriction requirement, in the present case, the Appellants are not arguing against a restriction requirement per se, but instead, the Appellants are arguing that the Examiner's interpretation of the claim language is incorrect. More particularly, the Examiner argues that claims 43-54 "are directed to an imaging reader device configured to obtain visual images of the identification devices." *Final Office Action*, page 2, paragraph 1. As such, the Examiner appears to argue that the previously presented claims failed to at least disclose this feature of claims 43-54.

However, original claims 4-6 recite that the identification devices include identifying indicia that are composed of elements from which information is visually obtained. As such, the reader device recited an independent claim 1 is inherently configured to obtain visual images of the identification devices. In one regard, therefore, the Examiner, in examining at least original claims 4-6 has already considered the features of claims 43-54. Given this reasoning, claims 43-54 are directed to the same subject matter as the originally presented claims.

Accordingly, the Examiner erred in withdrawing claims 43-54 from consideration as being directed to a nonelected invention. The Appellants thus respectfully request that the

Examiner's decision to withdraw claims 43-54 from consideration be withdrawn and that the Examiner be directed to examine these claims.

B. The rejection of claims 41-42 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention should be reversed

In the Examiner's Answer, the Examiner merely restates the same rejection the Examiner presented in the Final Office Action dated September 23, 2008. As such, the Examiner has failed to address any of the arguments presented in the Appeal Brief. Accordingly, the Board is respectfully requested to consider the arguments presented in the Appeal Brief pertaining to the impropriety of the Examiner's rejection of claims 41-42.

In addition, it is respectfully submitted that the phrase "one of A and B", which is the form of claim 41, is clear and has the meaning of either A or B. It is thus not at all understood as to why the Examiner believes that this phrase is unclear.

The Appellants thus respectfully request that the rejection of claims 41-42 under 35 U.S.C. § 112, second paragraph be reversed for at least three reasons presented in the Appeal Brief.

C. The rejection of claims 1-10 and 37-40 under 35 U.S.C. § 103(a) as being unpatentable over Kleinschnitz in view of Gelbman should be reversed

With respect to independent claim 1, the Examiner argues that “Kleinschnitz discloses identifying the locations of the identification devices from the identification information received by the reader device from the plurality of identification devices.” *Final Office Action*, page 12, “Argument C”. In support of this argument, the Examiner states that column 8, lines 21-29 of Kleinschnitz discloses “using a barcode reader and scanner to read each cartridge label as cartridges are added to inventory, recording the label information read and the inventory location for the media cartridge, and identifies the locations of the inventory from the identification information of the label.” *Id.*

The Examiner thus asserts that Kleinschnitz discloses that the cartridges are inventoried by recording information contained in the cartridge labels. This interpretation, however, is entirely different from what is claimed in independent claim 1, which states, “means for identifying locations of the identification devices from the identification information received by the reader device from the plurality of identification devices.” In other words, in independent claim 1, the identification devices contain the location information of the identification devices and the means for identifying locations identifies the locations of the identification devices from the location information contained on the identification devices. Thus, for instance, an identification device of a server housed in a particular rack may contain location information pertaining to that particular rack. In one regard, therefore, the location of the server may be determined automatically from the location information contained on the identification devices.

Accordingly, although Kleinschnitz discloses that an inventory of the cartridges is maintained and that information from the cartridge labels are recorded, Kleinschnitz fails to

disclose that the cartridge labels themselves contain location information that a means for identifying uses to identify the locations of the cartridges.

The Examiner also argues that it would have been obvious to one of ordinary skill in the art to modify the barcode cartridge labels of Kleinshnitz to include the electronic labels disclosed in Gelbman. *Final Office Action*, page 13, "Argument D". The Examiner bases this argument on the assertion that "it would be extremely advantageous to incorporate the teachings of Gelbman into the disclosure of Kleinshnitz, for the purpose of providing a human or machine readable visual display of identification information as disclosed in [0007] of Gelbman." *Id.* The Examiner further bases this argument on the holding of the KSR decision. However, regardless of whether it would have been obvious to one of ordinary skill in the art to modify the barcode cartridge labels of Kleinshnitz to include the electronic labels disclosed in Gelbman, the proposed combination still fails to result in the claimed invention set forth an independent claim 1. For instance, the proposed combination still fails to disclose that the cartridge labels themselves contain location information that a means for identifying uses to identify the locations of the cartridges.

For at least the foregoing reasons, the combination of Kleinschnitz and Gelbman proposed by the Examiner fails to disclose each and every element recited an independent claim 1. The Appellants therefore respectfully request that the rejection of claims 1-10 and 37-40 be reversed.

D. The rejection of claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Kleinschnitz in view of Gelbman and further in view of Sims should be reversed

The Examiner appears to assert that Sims discloses labels that include indicia identifying the locations on the labels. In support of this assertion, the Examiner cites to the disclosure contained in the Abstract and column 15, line 56-column 16, line 13 of Sims. However, those cited sections of Sims fail to disclose that the labels contain location information that a means for identifying uses to identify the locations of the labels. As such, even assuming for the sake of argument that one of ordinary skill in the art would have been motivated to combine the disclosures of Kleinshnitz, Gelbman and Sims as suggested by the Examiner, the proposed combination would still fail to result in the claimed invention as set forth an independent claim 1, upon which claims 11 and 12 depend.

For at least the foregoing reasons, the combination of Kleinschnitz, Gelbman, and Sims proposed by the Examiner fails to disclose each and every element recited in independent claim 1. The Appellants therefore respectfully request that the rejection of claims 11 and 12 be reversed.

E. The rejection of claims 41 and 42 under 35 U.S.C. § 103(a) as being unpatentable over Gelbman further in view of Creager should be reversed

The Examiner argues that Creager discloses that “identifying is further configured to read the identification information from the images of the plurality of the identification devices.

Final Office Action, page 15, “Argument F”. More particularly, the Examiner argues that paragraphs [0023]-[0025] of Creager disclose “an imaging device that collects image information from a label reader that processes the image information to gather information about each readable cartridge label.” *Id.* As discussed in the Appeal Brief, Creager merely discloses that the orientations of the labels 252 are determined from imaging of the labels 252 to determine the orientations of the cartridges 250. *Creager*, par. [0025]. As such, Creager fails to disclose that locations of the readable cartridges 250 are available from the labels 252 affixed to the cartridges.

As such, even assuming for the sake of argument that one of ordinary skill in the art would have been motivated to combine the disclosures of Kleinshnitz, Gelbman and Creager as suggested by the Examiner, the proposed combination would still failed to result in the claimed invention set forth an independent claim 1, upon which claims 41 and 42 depend. For instance, the proposed combination still fails to disclose that the cartridge labels themselves contain location information that a means for identifying uses to identify the locations of the cartridges.

For at least the foregoing reasons, the combination of Kleinschnitz, Gelbman, and Creager proposed by the Examiner fails to disclose each and every element recited an independent claim 1. The Appellants therefore respectfully request that the rejection of claims 41 and 42 be reversed.

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(4) Conclusion


For at least the reasons given above, the rejection of claims 1-12 and 37-42 is improper. The Appellants therefore respectfully request that the Board of Patent Appeals and Interferences reverse the Examiner's decision rejecting claims 1-12 and 37-42 and to direct the Examiner to pass the case to issue.

Please grant any required extensions of time and charge any fees due in connection with this Appeal Brief to deposit account no. 08-2025.

Respectfully submitted,

Dated: August 11, 2009

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